

**THE HON'BLE MRS JUSTICE T MEENA KUMARI
AND
THE HON'BLE MS. JUSTICE G ROHINI**

Writ Petition No. 27073 of 2007

Dated: December 18, 2007

Between:

**M/s. Atlanta Print Systems Pvt. Ltd.,
P.G. Road, Secunderabad,
Rep. By its Managing Director
Mr G Shyam Prasad**

...Petitioner

and

**1. The Commercial Tax Officer,
Begumpet Circle, Hyderabad**

And

others.

..Respondents

**THE HON'BLE MRS. JUSTICE T MEENA KUMARI
AND
THE HON'BLE MS. JUSTICE G ROHINI**

Writ Petition No. 27073 of 2007

ORDER(per the Hon'ble Mrs. Justice T Meena Kumari):

Seeking a writ of mandamus, declaring action of the first respondent in insisting for payment of disputed tax for the assessment year 1998-1999 and initiating coercive action through the impugned Garnishee Proceedings in Form VAT 206 dated 22.11.2007 as arbitrary and illegal and to consequently restrain the first respondent from taking coercive steps for recovery of disputed tax pending appeal before the Hon'ble Sales Tax Appellate Tribunal, the petitioner filed this writ petition.

The petitioner is a private limited company carrying on business in manufacture and sale of computer stationery which is liable to be assessed at a concessional rate and is an assessee on the rolls of the

1st respondent and for the assessment year 1998-99 under the APGST Act the 1st respondent passed assessment orders through its proceedings dated 25.03.2002 treating the turnover of Rs.1,21,17,280/- and levied tax under Section 5F of the APGST Act.

Since, the petitioner was not served with the assessment order, he obtained certified copy of the order and filed appeal before the 2nd respondent challenging the levy of tax on a turnover of Rs.1,21,17,280/- and also levy of tax on a turnover of Rs. 6,13,334/- on different heads. While so, the 2nd respondent issued a check memo dated 9.2.2005 directing remittance of 12.5% of the disputed tax for maintaining the appeal, for which the petitioner through its letter dt. 22.2.2005 informed to 2nd respondent that since the disputed tax is to be adjusted towards the tax holiday limit granted to it. But, the appeal of the petitioner was rejected by the 2nd respondent through his order dated 20.7.2006 on the ground that the appeal is time barred. Challenging the order of the 2nd respondent dated 20.7.2006, the petitioner filed appeal before the Hon'ble Sales Tax Appellate Tribunal in T.A.No. 567 of 2006 and is pending for consideration. Along with the appeal, the petitioner also filed stay application before the 3rd respondent on 3.12.2007 and the same is also pending for consideration.

It is also stated in the affidavit filed in support of the petition that for the assessment year 2001-02 against the similar assessment order passed by the 1st respondent dated 6-1-2005, though the petitioner filed appeal before the 2nd respondent, the 2nd respondent rejected appeal through his order dated 20.7.2006 and the petitioner has challenged the same before the Hon'ble Sales Tax Appellate Tribunal in TA No. 567 of 2006 and also filed a stay application before the 3rd respondent and are pending for consideration. Like wise, for the assessment year 2002-

2003 also against the assessment order of the 1st respondent dated 14-2-2006 the petitioner filed appeal before 2nd respondent on 29-03-2006 and also filed stay application and are pending for consideration.

While so, first respondent issued Garnishee proceedings in Form FAT 206 directing the 4th respondent to remit an amount of Rs.16,58,439/- being the balance disputed tax for the assessment years 1998-99, 2001-02 and 2002-03. Hence the present writ petition.

Heard the learned counsel for the petitioner and the learned Special Standing Counsel for the respondents.

The controversy is that pending an appeal, and stay application, the Competent Authority issued Garnishee order directing for remittance of the disputed tax amounts. We have gone through the record. However, without going into merits of the case, we feel that the interest of justice would have been met if stay was granted pending Appeal, subject to deposit of 50% of the liability. Therefore, we set aside the impugned Garnishee order dated 22.11.2007 and direct that 50% of the disputed demanded amount shall be paid by the petitioner within a period of **six weeks** from the date of receipt of a copy of this order. For such period, there shall be an unconditional stay and stay shall continue till disposal of the appeal, provided the amount is deposited within the stipulated time. The deposit of amount shall be without prejudice to the rights of the petitioner in appeal. If the petitioner has already paid any amount, the same shall be given credit.

The writ petition is accordingly disposed of. No costs.

T MEENA KUMARI J

G ROHINI, J

Dt. 18.12.2007
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THE HON'BLE MRS. JUSTICE T. MEENA KUMARI
And
THE HON'BLE MS. JUSTICE G ROHINI

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W.P. No. 27073 of 2007

(Order of the Division Bench delivered by the
Hon'ble Mrs. Justice T Meena Kumari)

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18th December 2007